



April 10, 2009

ENGROSSED

SENATE BILL No. 280

DIGEST OF SB 280 (Updated April 8, 2009 9:21 am - DI 14)

Citations Affected: IC 31-9; IC 31-14; IC 31-19; IC 31-35.

Synopsis: Adoption. Expands the definition of "pre-adoptive sibling". Requires the clerk of courts to file a notice with the state department of health (department) concerning filings of petitions to establish paternity. Requires the department to provide: (1) certain information regarding filings of petitions to establish paternity; and (2) certain information not later than five days. (Current law requires the information be provided not later than 10 days.) Requires a court in which a paternity action is pending to stay all proceedings in the paternity action upon notice that a court in which an adoption is pending has assumed jurisdiction of the paternity action. Allows the department to release information concerning putative father registrations to: (1) attorneys who represent mothers, putative fathers, and child placing agencies; and (2) child placing agencies that represent mothers and putative fathers. Allows an attorney, a licensed child placing agency, or a county office of family and children that contacts an adoptee or a birth parent upon a request to release identifying information if an adoptee who is at least 21 years of age and a birth parent consent. Makes clarifying and conforming changes to correspond with current law. Provides that a biological father's consent to the termination of the parent-child relationship is not required if the father consents to the termination in a certain manner before the birth of the child. Prohibits a child's mother from executing a consent to the termination of the parent-child relationship before the birth of the child.

Effective: July 1, 2009.

Lubbers, Miller, Bray, Broden

(HOUSE SPONSORS — LAWSON L, KLINKER, FRIZZELL)

January 7, 2009, read first time and referred to Committee on Judiciary.
February 2, 2009, amended, reported favorably — Do Pass.
February 5, 2009, read second time, ordered engrossed. Engrossed.
February 9, 2009, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 25, 2009, read first time and referred to Committee on Public Policy.
April 9, 2009, amended, reported — Do Pass.

ES 280—LS 7172/DI 110+



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April 10, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 280

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 31-9-2-93 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 93. "Pre-adoptive
3 sibling", for purposes of:
4 (1) IC 31-19-18;
5 (2) IC 31-19-16.5; and
6 (3) IC 31-19-25;
7 means a **person who would have been a sibling** of an adoptee ~~who is~~
8 ~~born before the date that had the adoptee not been adopted,~~
9 **regardless of whether the person is born before or after** the
10 adoptee's adoption is finalized.
11 SECTION 2. IC 31-9-2-117.3, AS ADDED BY P.L.133-2008,
12 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2009]: Sec. 117.3. "Sibling", for purposes of **IC 31-19 and**
14 **IC 31-28-5**, means a brother or sister by blood, half-blood, or adoption.
15 SECTION 3. IC 31-14-9-0.5 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2009]: **Sec. 0.5. Upon the filing of a petition to establish**

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1 paternity, the clerk of the court shall prepare a notice of the filing
 2 on a form prescribed and furnished by the state department of
 3 health. The notice must include the following:

- 4 (1) The name of the child.
- 5 (2) The name of the mother of the child.
- 6 (3) The name and address of the man alleged or alleging to be
 7 the father of the child.
- 8 (4) The name of the petitioner.
- 9 (5) The date the petition was filed.
- 10 (6) The name of the court and cause number.

11 SECTION 4. IC 31-14-9-2 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Not later than the
 13 tenth day of each month, the clerk of the court shall forward to the state
 14 department of health the following:

- 15 (1) Each record of a paternity determination entered during the
 16 preceding month.
- 17 (2) Each order entered during the preceding month indicating that
 18 a court has set aside a paternity determination.
- 19 (3) Any other related reports that the state department of health
 20 requires.

21 (b) Not later than five (5) days after a petition to establish
 22 paternity has been filed, the clerk of the court shall forward to the
 23 state department of health a notice required by section 0.5 of this
 24 chapter related to the petition to establish paternity.

25 SECTION 5. IC 31-14-21-9 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) **Except as**
 27 **provided under section 13 of this chapter and** subject to
 28 IC 31-19-2-14, if a court presiding over a paternity action under this
 29 article knows of:

- 30 (1) a pending adoption of a child who is the subject of the
 31 paternity action; and
- 32 (2) the court in which the adoption is pending;

33 the court having jurisdiction over the paternity action shall establish a
 34 child's paternity within the period prescribed by this chapter.

35 (b) **Except as provided under section 13 of this chapter and**
 36 subject to IC 31-19-2-14, the court shall conduct an initial hearing not
 37 more than thirty (30) days after:

- 38 (1) the filing of the paternity petition; or
- 39 (2) the birth of the child;

40 whichever occurs later.

41 SECTION 6. IC 31-14-21-9.1 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9.1. (a) **Except as**

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provided under section 13 of this chapter and subject to IC 31-19-2-14, at the initial hearing held under section 9 of this chapter, the court shall order all the parties to the paternity action to undergo blood or genetic testing.

(b) If the alleged father is unable to pay for the initial costs of the testing, the court shall order that the tests be paid by the state department of health from putative father registry fees collected under IC 31-19-2-8(2). The state department of health may recover costs from an individual found to be the biological father of the child in the action.

SECTION 7. IC 31-14-21-9.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9.2. **Subject to IC 31-19-2-14 and section 13 of this chapter**, not later than ninety (90) days after the initial hearing held under section 9 of this chapter, the court shall conduct a final hearing to determine paternity. Not more than fourteen (14) days after the final hearing, the court shall issue its ruling in the paternity action.

SECTION 8. IC 31-14-21-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 13. Upon notice that a court in which an adoption is pending has assumed jurisdiction of a paternity action under IC 31-19-2-14, the court in which the paternity action was pending shall stay all proceedings in the paternity action until further order from the court in which the adoption is pending.**

SECTION 9. IC 31-19-2.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. Notice of the pendency of the adoption proceedings does not have to be given to:

- (1) a person whose consent to adoption has been filed with the petition for adoption;
- (2) a person whose consent to adoption is not required by:
 - (A) IC 31-19-9-8(a)(4)(A);
 - (B) IC 31-19-9-8(a)(4)(D);
 - (C) IC 31-19-9-8(a)(5);
 - (D) IC 31-19-9-8(a)(6);
 - (E) IC 31-19-9-8(a)(7);
 - (F) IC 31-19-9-8(a)(8);
 - (G) IC 31-19-9-9;
 - (H) IC 31-19-9-10;
 - ~~(I)~~ (I) IC 31-19-9-12; or
 - ~~(H)~~ (J) IC 31-19-9-15; or
 - (K) IC 31-19-9-18;
- (3) the hospital of an infant's birth or a hospital to which an infant

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is transferred for medical reasons after birth if the infant is being adopted at or shortly after birth;

(4) a person whose parental rights have been terminated before the entry of a final decree of adoption; or

(5) a person who has waived notice under:

(A) IC 31-19-4-8; or

(B) IC 31-19-4.5-4.

SECTION 10. IC 31-19-4-3, AS AMENDED BY P.L.146-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) If:

(1) the mother of a child:

(A) informs an attorney or agency arranging the child's adoption, on or before the date the child's mother executes a consent to the child's adoption, that the child was conceived outside Indiana; and

(B) does not disclose to the attorney or agency the name or address, or both, of the putative father of the child; and

(2) the putative father of the child has:

(A) failed or refused to consent to the adoption of the child or has not had the parent-child relationship terminated under IC 31-35 (or IC 31-6-5 before its repeal); and

(B) not registered with the putative father registry under IC 31-19-5 within the period under IC 31-19-5-12;

the attorney or agency shall serve notice of the adoption proceedings on the putative father by publication in the same manner as a summons is served by publication under ~~Rule 4.13~~ **Rule 4.13(C)** of the Indiana Rules of Trial Procedure.

(b) The only circumstance under which notice to the putative father must be given by publication under ~~Rule 4.13~~ **Rule 4.13(C)** of the Indiana Rules of Trial Procedure is when the child was conceived outside of Indiana as described in subsection (a).

SECTION 11. IC 31-19-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies to a putative father whenever:

(1) an adoption under IC 31-19-2 ~~is~~ **has been or may be** filed regarding a child who may have been conceived by the putative father; and

(2) on or before the date the child's mother executes a consent to the child's adoption, the child's mother has not disclosed the name or address, or both, of the putative father to an attorney or agency that is arranging the child's adoption.

SECTION 12. IC 31-19-5-6 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) This chapter does not relieve a man who is presumed to be a father under 31-14-7-2 from the obligation of registering in accordance with this chapter to be entitled to notice of an adoption of a child for whom the man may be the presumed father.

(b) The filing of a paternity action by a putative father does not relieve the putative father from the:

(1) obligation of registering; or

(2) consequences of failing to register;

in accordance with this chapter unless paternity has been established before the filing of the petition for adoption of the child.

SECTION 13. IC 31-19-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The state department of health shall maintain the following information in the registry:

(1) The putative father's:

(A) name;

(B) address at which the putative father may be served with notice of an adoption under Rule 4.1 of the Indiana Rules of Trial Procedure;

(C) Social Security number; and

(D) date of birth.

(2) The mother's:

(A) name, including all other names known to the putative father that the mother uses, if known;

(B) address, if known;

(C) Social Security number, if known; and

(D) date of birth, if known.

(3) The child's:

(A) name, if known; and

(B) place of birth, if known.

(4) The date that the state department of health receives a putative father's registration.

(5) The:

(A) name of an attorney or agency that requests the state department to search the registry under section 15 of this chapter to determine whether a putative father is registered in relation to a mother whose child is or may be the subject of an adoption; and

(B) date that the attorney or agency submits a request as provided under this subdivision.

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(6) Any notice of a filing of a petition to establish paternity as described in IC 31-14-9-0.5.

~~(6)~~ (7) Any other information that the state department determines is necessary to access the information in the registry.

(b) If a putative father does not have an address where the putative father is able to be served with notice of an adoption, the putative father may designate another person as an agent for the purpose of being served with notice of adoption. The putative father must provide the department with the agent's name and the address at which the agent may be served. Service of notice upon the agent under Rule 4.1 of the Indiana Rules of Trial Procedure constitutes service of notice upon the putative father. If notice of an adoption may not be served on the agent under Rule 4.1 of the Indiana Rules of Trial Procedure as provided by this subsection, further notice of the adoption to the agent or to the putative father is not necessary.

SECTION 14. IC 31-19-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) A putative father who registers under this chapter shall provide to the state department of health the following:

(1) The putative father's:

(A) name;

(B) address at which the putative father may be served with notice of an adoption under Rule 4.1 of the Indiana Rules of Trial Procedure;

(C) Social Security number; and

(D) date of birth.

(2) The mother's name, including all other names known to the putative father that the mother uses.

(3) Any other information described under section 7 of this chapter that is known to the putative father.

(b) A clerk of the court shall provide to the state department of health the notice required to be prepared under IC 31-14-9-0.5.

SECTION 15. IC 31-19-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) An attorney or agency that arranges an adoption or may arrange an adoption may at any time request that the state department of health search the registry to determine whether a putative father:

(1) is registered in relation to a mother whose child is or may be the subject of an adoption; or

(2) has filed a petition to establish paternity under this chapter;

(b) Whenever a petition for adoption is filed, the attorney or agency

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that arranges the adoption shall:

- (1) request that the state department of health search the registry under this section at least one (1) day after the expiration of the period specified by section 12 of this chapter; and
- (2) file an affidavit prepared by the state department of health under section 16 of this chapter in response to a request under subdivision (1) with the court presiding over the adoption under this article.

SECTION 16. IC 31-19-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) Not later than ~~ten (10)~~ **five (5)** days after receiving a request under section 15 of this chapter, the state department of health shall submit an affidavit to the attorney or agency verifying whether a putative father:

- (1) is registered within the period specified by section 12 of this chapter in relation to a mother whose child is the subject of the adoption that the attorney or agency is arranging; or**
- (2) has filed a petition to establish paternity under this chapter.**

(b) Whenever the state department of health finds that one (1) or more putative fathers are registered, the state department shall:

- (1) submit a copy of each registration form with the state department's affidavit; and
- (2) include in the affidavit the date that the attorney or agency submits the request for a search that relates to the affidavit.

(c) Whenever the state department of health finds that one (1) or more putative fathers have filed a petition to establish paternity under this chapter, the state department of health shall:

- (1) submit a copy of each notice prepared by the clerk of the court under IC 31-14-9-0.5 with the state department of health's affidavit; and**
- (2) include in the affidavit the date the attorney or agency submitted the request for the search that relates to the affidavit.**

~~(c)~~ **(d)** A court may not grant an adoption unless the state department's affidavit under this section is filed with the court as provided under IC 31-19-11-1(a)(4).

SECTION 17. IC 31-19-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. Whenever the state department of health receives a request under section 15 of this chapter, the state department shall:

- (1) search the state department's records of paternity determinations **and notices of filings of petitions to establish**

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1 **paternity** filed under IC 31-14-9-2; and

2 (2) notify the attorney or agency, in compliance with IC 31-19-6,
3 as to whether a record of a paternity determination **or a notice of**
4 **a filing of a petition to establish paternity** has been filed
5 concerning a child who is or may be the subject of an adoption
6 that the attorney or agency is arranging.

7 SECTION 18. IC 31-19-5-21 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) Subject to
9 subsection (b), upon written request by:

- 10 (1) a putative father;
11 (2) a mother;
12 (3) a child;
13 (4) any party or attorney of record in a pending adoption;
14 (5) an attorney who represents:

15 (A) prospective adoptive parents; ~~or~~

16 (B) petitioners in an adoption;

17 (C) **a mother; or**

18 (D) **a putative father; or**

19 (E) **a licensed child placing agency;**

20 (6) a licensed child placing agency that represents:

21 (A) prospective adoptive parents; ~~or~~

22 (B) petitioners in an adoption;

23 (C) **a mother; or**

24 (D) **a putative father; or**

25 (7) a court that presides over a pending adoption;

26 the state department of health shall furnish a certified copy of a
27 putative father's registration form **and a copy of any notice of a filing**
28 **of a petition to establish paternity prepared under IC 31-14-9-0.5.**

29 (b) The state department may release the certified copy of the
30 registration form to a person under subsection (a)(1) through (a)(3)
31 only if the information contained in the registration form names the
32 requesting person.

33 (c) A person listed under subsection (a), who requests information
34 about a registration from the state department, must do the following:

35 (1) Submit the request in writing.

36 (2) Under the penalties of perjury, state that the requesting person
37 is entitled to receive the information under this chapter.

38 (3) Submit the request in a manner described by section 20(1) or
39 20(2) of this chapter.

40 SECTION 19. IC 31-19-6-1 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. An attorney or
42 agency that arranges an adoption or may arrange an adoption may at

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any time request that the state department of health search the state department's records of:

(1) paternity determinations to determine whether a man's paternity of a child has been established in relation to a child who is or may be the subject of an adoption; and

(2) notices of filings of petitions to establish paternity.

SECTION 20. IC 31-19-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. Not later than ~~ten~~ **(+0) five (5)** days after receiving a request under section 1 of this chapter, the state department of health shall:

(1) submit an affidavit to the attorney or agency verifying whether a record of a paternity determination has been filed under IC 31-14-9-2 concerning the child; and

(2) search the putative father registry established by IC 31-19-5 and notify the attorney or agency, in compliance with IC 31-19-5-16 as to whether a putative father has:

(A) registered concerning the child; or

(B) **filed a petition to establish paternity in relation to the child.**

SECTION 21. IC 31-19-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) If a record of a paternity determination has been filed concerning a child who is the subject of a request under section 1 of this chapter, the state department of health shall release a copy of the record of the paternity determination to the requesting attorney or agency.

(b) If a notice of a filing of a petition to establish paternity has been filed concerning a child who is the subject of a request under section 1 of this chapter, the state department of health shall release a copy of the notice of the filing of the petition to the requesting attorney or agency.

SECTION 22. IC 31-19-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as otherwise provided in this chapter, a petition to adopt a child who is less than eighteen (18) years of age may be granted only if written consent to adoption has been executed by the following:

(1) Each living parent of a child born in wedlock, **including a man who is presumed to be the child's biological father under IC 31-14-7-1(1) if the man is the biological or adoptive parent of the child.**

(2) The mother of a child born out of wedlock and the father of a child whose paternity has been established by:

(A) a court proceeding other than the adoption proceeding,

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1 except as provided in IC 31-14-20-2; or
 2 (B) a paternity affidavit executed under IC 16-37-2-2.1;
 3 unless the putative father gives implied consent to the adoption
 4 under section 15 of this chapter.
 5 (3) Each person, agency, or county office of family and children
 6 having lawful custody of the child whose adoption is being
 7 sought.
 8 (4) The court having jurisdiction of the custody of the child if the
 9 legal guardian or custodian of the person of the child is not
 10 empowered to consent to the adoption.
 11 (5) The child to be adopted if the child is more than fourteen (14)
 12 years of age.
 13 (6) The spouse of the child to be adopted if the child is married.
 14 (b) A parent who is less than eighteen (18) years of age may consent
 15 to an adoption without the concurrence of:
 16 (1) the individual's parent or parents; or
 17 (2) the guardian of the individual's person;
 18 unless the court, in the court's discretion, determines that it is in the
 19 best interest of the child to be adopted to require the concurrence.
 20 SECTION 23. IC 31-19-10-4 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. A consent to
 22 adoption may **be withdrawn only as provided in this chapter and**
 23 **may** not be withdrawn after the entry of the adoption decree.
 24 SECTION 24. IC 31-19-15-1, AS AMENDED BY P.L.130-2005,
 25 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2009]: Sec. 1. (a) Except as provided in section 2 of this
 27 chapter or IC 31-19-16, if the biological parents of an adopted person
 28 are alive, the biological parents are:
 29 (1) relieved of all legal duties and obligations to the adopted
 30 child; and
 31 (2) divested of all rights with respect to the child;
 32 **and the parent-child relationship is terminated** after the adoption
 33 **unless the parent-child relationship was terminated by an earlier**
 34 **court action, operation of law, or otherwise.**
 35 (b) The obligation to support the adopted person continues until the
 36 entry of the adoption decree. The entry of the adoption decree does not
 37 extinguish the obligation to pay past due child support owed for the
 38 adopted person before the entry of the adoption decree.
 39 SECTION 25. IC 31-19-17-2, AS AMENDED BY P.L.129-2005,
 40 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2009]: Sec. 2. A person, a licensed child placing agency, or a
 42 county office of family and children placing a child for adoption shall

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1 prepare **or cause to be prepared** a report summarizing the available
 2 medical, psychological, and educational records of the person or
 3 agency concerning the birth parents. The person, agency, or county
 4 office shall exclude from this report information that would identify the
 5 birth parents **unless the adoptive parents know the identity of the**
 6 **birth parents.** The person, agency, or county office shall give the
 7 report to:

8 (1) the adoptive parents:

9 (A) at the time the home study or evaluation concerning the
 10 suitability of the proposed home for the child is commenced;

11 ~~or~~

12 **(B) as soon as practical after the adoptive parents are**
 13 **matched with the birth mother; or**

14 ~~(B)~~ (C) with the consent of the adoptive parents, not more than
 15 thirty (30) days after the child is placed with the adoptive
 16 parents; and

17 (2) upon request **and without information that would identify**
 18 **the birth parents unless an adoptee already knows the identity**
 19 **of the birth parents, an** adoptee who:

20 (A) is at least twenty-one (21) years of age; and

21 (B) provides proof of identification

22 SECTION 26. IC 31-19-17-3, AS AMENDED BY P.L.1-2006,
 23 SECTION 497, IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2009]: Sec. 3. The person, licensed child
 25 placing agency, or county office of family and children shall:

26 (1) exclude information that would identify the birth parents
 27 **unless the adoptive parent under subdivision (2)(A) or an**
 28 **adoptee under subdivision (2)(B) who requests the**
 29 **information knows the identity of the birth parents; and**

30 (2) release all available social, medical, psychological, and
 31 educational records concerning the child to:

32 (A) the adoptive parent; and

33 (B) upon request, an adoptee who:

34 (i) is at least twenty-one (21) years of age; and

35 (ii) provides proof of identification.

36 SECTION 27. IC 31-19-17-5, AS AMENDED BY P.L.1-2006,
 37 SECTION 499, IS AMENDED TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) This section applies to an
 39 adoption that is granted before July 1, 1993.

40 (b) Upon the request of an adoptee who:

41 (1) is at least twenty-one (21) years of age; and

42 (2) provides proof of identification;

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a person, a licensed child placing agency, or a county office of family and children shall provide to the adoptee available information of social, medical, psychological, and educational records and reports concerning the adoptee. The person, licensed child placing agency, or county office of family and children shall exclude from the records information that would identify the birth parents **unless an adoptee already knows the identity of the birth parents.**

SECTION 28. IC 31-19-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The following persons may transmit identifying information and nonidentifying information to the state registrar for inclusion with the adoption history:

- (1) An adoptee who is an adult.
- (2) A birth parent.
- (3) An adoptive parent.
- (4) A pre-adoptive sibling **who is at least twenty-one (21) years of age.**
- (5) The spouse or relative of a deceased adoptee if the relationship existed at the time of the adoptee's death.
- (6) The spouse or relative of a deceased birth parent if the relationship existed at the time of the birth parent's death.

(b) The state registrar shall store all information received under this section in a manner that is readily recoverable.

(c) Any transmission of information received under this section must include an affirmation by the person that:

- (1) the information is true or that the person believes the information to be true; and
- (2) the person is a person described in subsection (a).

SECTION 29. IC 31-19-22-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. An attorney, a licensed child placing agency, or a county office of family and children who contacts an adoptee or a birth parent upon a request under section 7 of this chapter may not disclose identifying information ~~However,~~ **unless the:**

- (1) **adoptee who:**
 - (A) **is at least twenty-one (21) years of age gives written consent; or**
 - (B) **is less than twenty-one (21) years of age has the written consent of the adoptee's adoptive parents; and**

(2) **birth parent gives written consent;**
to the release of identifying information by the attorney, licensed child placing agency, or county office of family and children. If both the adoptee who is at least twenty-one (21) years of age and

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1 **the birth parent consent to the release of identifying information**
 2 **but do not provide the consent in writing,** the attorney, agency, or
 3 county office of family and children may inform the adoptee or the
 4 birth parent regarding the fact that an adoptee or a birth parent has
 5 consented to the release of identifying information under IC 31-19-21
 6 (or IC 31-3-4-27 before its repeal). The attorney, licensed child placing
 7 agency, or county office of family and children may inquire as to
 8 whether the adoptee or birth parent, whose consent is still needed
 9 before identifying information may be released, is interested in
 10 participating in the adoption registry under IC 31-19-18 through
 11 IC 31-19-21, this chapter, and IC 31-19-23 through IC 31-19-24.

12 SECTION 30. IC 31-19-25-3, AS AMENDED BY P.L.145-2006,
 13 SECTION 261, IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) An adoptee's birth parent may
 15 restrict access to identifying information concerning the birth parent by
 16 filing a written nonrelease form with the state registrar that evidences
 17 the birth parent's lack of consent to the release of identifying
 18 information under this section.

19 (b) The following persons may not release any identifying
 20 information concerning the birth parent to the adoptee if a nonrelease
 21 form is in effect at the time of the request for identifying information:

- 22 (1) The state registrar.
- 23 (2) The department.
- 24 (3) A county office of family and children.
- 25 (4) A licensed child placing agency.
- 26 (5) A professional health care provider.
- 27 (6) A court.

28 (c) The nonrelease form filed under this section:

- 29 (1) remains in effect during the period indicated by the person
 30 submitting the form;
- 31 (2) is renewable; and
- 32 (3) may be withdrawn at any time by the person who submitted
 33 the form.

34 **(d) The nonrelease form is no longer in effect if the birth parent**
 35 **consents in writing to the release of identifying information and**
 36 **has not withdrawn that consent.**

37 SECTION 31. IC 31-35-1-6, AS AMENDED BY P.L.146-2007,
 38 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2009]: Sec. 6. (a) Except as provided in subsection (c), the
 40 parents must give their consent in open court unless the court makes
 41 findings of fact upon the record that:

- 42 (1) the parents gave their consent in writing before a person

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authorized by law to take acknowledgments; and

(2) the parents were:

(A) advised in accordance with section 12 of this chapter; and

(B) advised that if they choose to appear in open court, the only issue before the court is whether their consent was voluntary.

(b) If:

(1) the court finds the conditions under subsection (a)(1) and

(a)(2) have been met; and

(2) a parent appears in open court;

a court may consider only the issue of whether the parent's consent was voluntary.

(c) The consent of a parent to the termination of the parent-child relationship under this chapter is not required if:

(1) consent to the termination of the parent-child relationship is implied under section 4.5 of this chapter, if the parent is the putative father;

(2) the parent's consent to the adoption of the child would not be required under:

(A) IC 31-19-9-8;

(B) IC 31-19-9-9; or

(C) IC 31-19-9-10; or

(3) the child's biological father denies paternity of the child before or after the birth of the child if the denial of paternity:

(A) is in writing;

(B) is signed by the child's father in the presence of a notary public; and

(C) contains an acknowledgment that:

(i) the denial of paternity is irrevocable; and

(ii) the child's father will not receive notice of adoption or termination of parent-child relationship proceedings; or

(4) the child's biological father consents to the termination of the parent-child relationship before the birth of the child if the consent:

(A) is in writing;

(B) is signed by the child's father in the presence of a notary public; and

(C) contains an acknowledgment that:

(i) the consent to the termination of the parent-child relationship is irrevocable; and

(ii) the child's father will not receive notice of adoption or termination of parent-child relationship proceedings.

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1 A child's father who denies paternity of the child under subdivision (3)
2 **or consents to the termination of the parent-child relationship**
3 **under subdivision (4)** may not challenge or contest the child's
4 adoption or termination of the parent-child relationship.

5 (d) A child's mother may not consent to the termination of the
6 parent-child relationship before the birth of the child.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 280, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete lines 25 through 40.

Page 5, line 11, strike "is".

Page 5, line 11, delete "contemplated or" and insert "**has been or may be**".

Page 11, line 19, delete "and provide" and insert "**or cause to be prepared**".

Page 12, between lines 24 and 25, begin a new paragraph and insert: "SECTION 29. IC 31-19-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The following persons may transmit identifying information and nonidentifying information to the state registrar for inclusion with the adoption history:

- (1) An adoptee who is an adult.
- (2) A birth parent.
- (3) An adoptive parent.
- (4) A pre-adoptive sibling **who is at least twenty-one (21) years of age**.
- (5) The spouse or relative of a deceased adoptee if the relationship existed at the time of the adoptee's death.
- (6) The spouse or relative of a deceased birth parent if the relationship existed at the time of the birth parent's death.

(b) The state registrar shall store all information received under this section in a manner that is readily recoverable.

(c) Any transmission of information received under this section must include an affirmation by the person that:

- (1) the information is true or that the person believes the information to be true; and
- (2) the person is a person described in subsection (a)."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 280 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 0.

ES 280—LS 7172/DI 110+



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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Senate Bill 280, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 3, delete ":" and insert "**have been terminated before the entry of a final decree of adoption; or**".

Page 4, delete lines 4 through 6.

Page 13, after line 38, begin a new paragraph and insert:

"SECTION 31. IC 31-35-1-6, AS AMENDED BY P.L.146-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Except as provided in subsection (c), the parents must give their consent in open court unless the court makes findings of fact upon the record that:

(1) the parents gave their consent in writing before a person authorized by law to take acknowledgments; and

(2) the parents were:

(A) advised in accordance with section 12 of this chapter; and

(B) advised that if they choose to appear in open court, the only issue before the court is whether their consent was voluntary.

(b) If:

(1) the court finds the conditions under subsection (a)(1) and (a)(2) have been met; and

(2) a parent appears in open court;

a court may consider only the issue of whether the parent's consent was voluntary.

(c) The consent of a parent to the termination of the parent-child relationship under this chapter is not required if:

(1) consent to the termination of the parent-child relationship is implied under section 4.5 of this chapter, if the parent is the putative father;

(2) the parent's consent to the adoption of the child would not be required under:

(A) IC 31-19-9-8;

(B) IC 31-19-9-9; or

(C) IC 31-19-9-10; or

(3) the child's biological father denies paternity of the child before or after the birth of the child if the denial of paternity:

(A) is in writing;

(B) is signed by the child's father in the presence of a notary public; and

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(C) contains an acknowledgment that:
 (i) the denial of paternity is irrevocable; and
 (ii) the child's father will not receive notice of adoption or termination of parent-child relationship proceedings; **or**
(4) the child's biological father consents to the termination of the parent-child relationship before the birth of the child if the consent:

- (A) is in writing;**
- (B) is signed by the child's father in the presence of a notary public; and**
- (C) contains an acknowledgment that:**
 - (i) the consent to the termination of the parent-child relationship is irrevocable; and**
 - (ii) the child's father will not receive notice of adoption or termination of parent-child relationship proceedings.**

A child's father who denies paternity of the child under subdivision (3) **or consents to the termination of the parent-child relationship under subdivision (4)** may not challenge or contest the child's adoption or termination of the parent-child relationship.

(d) A child's mother may not consent to the termination of the parent-child relationship before the birth of the child."

and when so amended that said bill do pass.

(Reference is to SB 280 as printed February 3, 2009.)

VAN HAAFTEN, Chair

Committee Vote: yeas 9, nays 0.

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